IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.149 OF 2006

Pune Municipal Corporation .. Applicant

versus

Shri Arvind Anant Gholap .. Respondents

...

Mr.R.G. Ketkar for the applicant.

CORAM : D.G. KARNIK, J

DATED : 24th August 2006.

P.C.:

1. Heard learned counsel for the applicant.

2. The only ground urged by the learned counsel for the applicant is that the Small Causes Court ought not to have entertained the appeal against a bill as the appeal was not filed against the fixation of the rateable value. In my view, the point is concluded by the decision of the Division Bench of this Court in Ashok Srichand Vs. Municipal Corporation of City of

Pune, reported in 1980, Mh.L.J. 534. In the said case, the Division Bench has clearly laid down that an appeal can be filed even against a bill. Learned counsel for the petitioner urges that the provisions of section 406(2)(a) r/w sec.407 of the Bombay Provincial Municipal Corporation Act, 1949 (for short 'the Act') were not brought to the notice of the Division Bench and have accordingly not been considered and therefore, the judgement is per incurium and in any event requires reconsideration. He therefore prays that a reference may be made to a larger bench. The submission has no merit. In paragraph no.7 of the judgement, the Division Bench has quoted section 406 of the Act. It therefore cannot be stated that the Division Bench was oblivious of the provisions of section 406 of the Act. Since the matter is covered by the decision of the Division Bench, revision application is dismissed.

(D.G. KARNIK, J)